OFFICE OF THE SECRETARY, MYSORE LEGISLATIVE COUNCIL.

No. 1234—*Legis. dated 28th September* 1926.

Under Rule 8 of the Rules for the conduct of business of the Mysore Legislative Council, the accompanying Bill further to amend the Mysore Municipal Regulation, VII of 1906, is published for general information with the statement of objects and reasons.

By Order,

R. RANGA RAO,

Secretary, Mysore Legislative Council.

A BILL FURTHER TO AMEND THE MYSORE MUNICIPAL REGULATION, VII OF 1906.

Whereas it is expedient further to amend the Mysore Municipal Regulation, 1906, it is hereby enacted as follows :—

1. This Regulation may be called the Mysore Municipal (Amendment) Regulation, 19

2. After the definition of "Councillor" in clause (2) of Section 3, the following definition shall be added :—

"2(*a*) 'the whole number' shall mean when used with reference to the Councillors of a Municipal Council, the total sanctioned strength of the Council."

3. At the end of clause (10) of Section 3, add the following :—

"and shall include all payments made or agreed to be made by a tenant to the owner of the building or land on account of occupation, taxes, insurance or other charges incidental to his tenancy."

4. After Sub-Section (2) of Section 13, the following section shall be inserted :—

"13A. A person who is elected or appointed a Councillor of a Council whose term of office has not commenced shall not be qualified to be elected as a Councillor for the same Council at any election held after his election or appointment as such Councillor but before the commencement of the term of such Council."

5. At the end of Sub-Section (1) of Section 15, add the following para, *viz.*—

"If any person is elected or nominated as a Councillor in contravention of the above provisions, his seat shall be deemed to be vacant."

6. After Sub-Section (2) (*b*) (ii) of Section 15, add the following :—

"(iii) in which he is engaged at the time in any case against the Municipal Council or"

7. After sub-clause (*e*) of Sub-Section (2) of Section 15, add the following :—

"(*f*) fails to pay any arrears of any kind due by him to the Municipal Council within three months after a special notice in this behalf has been served upon him."

8. At the end of Sub-Section (3) of Section 15, add the following :—

"after a reasonable opportunity has been given to the Councillor."

9. The following shall be inserted for Section 15A :—

"Any Councillor may resign his office from the date of giving a notice in writing to that effect to the President and the President may resign his office by giving a notice in writing to that effect to the Government in the case of City Municipalities and to the Deputy Commissioner in the case of other Municipalities. In the case of Presidents, if such resignation is accepted

it shall take effect from the date on which the intimation of such acceptance reaches the office of the President.

10. The following para shall be added to Section 18:—

"A Councillor whose office has become vacant under sub-clause (2), Section 15 shall, if his disability has ceased, be eligible for re-election."

11. After clause (5) of Section 22, add the following:—

"Explanation.—The expression "error" in this clause does not include any breach of or any omission to carry out or any non-compliance with the provisions of this Regulation or Rules made thereunder whereby the result of election has been materially affected."

12. At the end of Sub-Section (6) of Section 22 after the word "disqualification," add the following:—

"Provided further that no such declaration shall be made in respect of any person without such person being given an opportunity to show cause why such declaration should not be made."

13. After Section 23, the following section shall be inserted as Section 23A, the existing Section 23A being changed into Section 23B:—

"23A. The Government may remove any elected or nominated President or Vice-President, if a resolution for such removal is passed by three-fourths of the whole number of Councillors of the Municipal Council at a meeting specially convened in that behalf, such resolution being confirmed at a like meeting by a like majority."

14. After clause (d), Sub-Section (1) of Section 24, insert the following clause:—

"(e) The President of a Municipal Council may in cases of emergency direct the execution or stoppage of any work or the doing of any act which requires the sanction of the Municipal Council and the immediate execution or doing of which is in his opinion necessary for the service or safety of the public and may direct that the expense of executing such work or doing such an act shall be paid from the Municipal Fund, provided that

(i) he shall not act under this Section in contravention of any order of the Municipal Council prohibiting the execution of any particular work or the doing of any particular act; and

(ii) he shall report forthwith the action taken under this Section and the reason therefor to the Municipal Council at their next meeting."

15. In Sub-Section (3) of Section 26 after the word "notice" when it occurs a second time, insert the following:—

"or in cases of great urgency, notice of such shorter period as is reasonable."

16. In Sub-Section (12) of Section 26 for the word "supported" where it occurs first, substitute the word "passed" and omit the words "and passed" occurring after the word "Councillors."

17. After the word "President" in Sub-Section (2) of Section 26B, the words "and to move resolutions" shall be added.

18. In clause (b) of proviso to Sub-Section (2) of Section 27, the figures "29 or 29A" shall be substituted for the figure "29."

19. For Sub-Section (2) of Section 35, the following shall be substituted:—

"(2) Every order passed by a Managing Committee or by a Committee appointed under Sections 28, 29 or 29A, other than orders under Sub-Section (3) of Section 65, shall be subject to revision by, and open to appeal to the Municipal Council in accordance with rules that may be framed by the Municipal Council in this behalf."

20. (1) In Section 37, the words "rules that may be framed" shall be substituted for the words "rules to be made."

(2) In the same section, the figures and word "29 or 29A" shall be substituted for the word and figure "or 29."

21. After Sub-Section (1) of Section 38, add the following para :—

"No resolution of a Municipal Council or of any Committee appointed under this Regulation shall be deemed invalid on account of any irregularity in the service of notice upon any Councillor or member, provided that the proceedings of the Municipal Council or Committee were not prejudicially affected by such irregularity."

22. In clause (*a*) of Sub-Section (1) of Section 48, the words "all public places used for the sale of articles" shall be inserted after the word "markets."

23. After clause (*e*) of Section 48, the following shall be inserted :—

"Explanation : Sources and means of water-supply shall include private wells which are used by the public."

24. At the end of Section 59, the following shall be inserted :—

"Provided further that the Government may, from time to time, alter, add to or cancel any one or more of the schedules Nos. I, II, II-A and III of this Regulation by a notification published in the Official Gazette."

25. Section 61 shall be numbered as Sub-Section (1) and the following shall be added as Sub-Section (2) :—

"(2) Notwithstanding anything contained in Sub-Section (1), the Government may either generally or in any particular case issue such orders as it may deem fit for regulating the number and location of toll stations, and determining in the case of neighbouring local authorities which local authorities shall be in charge of particular toll stations and how much of the revenue realised by one local authority from a toll station or toll stations in its charge shall be paid to another neighbouring local authority."

26. After Section 85, insert the following section, *viz.*—

"85A. (1)-If the Municipal Council shall at any time have reason to believe that any person from whom any sum recoverable under the provisions of this Chapter is due or is about to become due, is about forthwith to remove from the Municipal area, the Municipal Council may direct the immediate payment by such person of the sum so due or about to become due by him and cause a bill for the same to be presented to him.

(2) If, on presentation of such bill, the said person does not forthwith pay the sum due or about to become due by him, the amount shall be leviable by distress and sale of the movable property of the defaulter in the manner hereinbefore prescribed, except that it shall not be necessary to serve upon the defaulter any notice of demand and the Municipal Council's warrant for distress and sale may be issued and executed without any delay."

27. After Section 126, insert the following section, *viz.*—

"126A. (1) The Municipal Council may by public notice require that every dog while in the streets and not being led by some person shall be muzzled in such a way as to allow the dog freely to breathe and to drink, while effectually preventing it from biting.

(2) Subject to the provisions of Sub-Section (3), the Municipal Council may take possession of any dog found wandering unmuzzled in any public place and may either detain such dog until its owner has claimed it, has provided a proper muzzle for it, and has paid all the expenses of its detention, or cause it to be destroyed.

(3) When a dog which has been detained under the last preceding sub-section is wearing a collar with the owner's name and address thereon, such dog shall not be destroyed until a letter stating the fact that it has been so detained has been sent to the said address, and the dog has remained unclaimed for

3 clear days; provided that any dog, which is found to be rabid may be destroyed at any time.

(4) Any unclaimed dog and any dog, the owner of which refuses to pay all the expenses of its detention, may be sold or destroyed, after having been detained for the said period of 3 clear days.

(5) All expenses incurred by the Municipal Council under this section may be recovered from the owner of any dog which has been taken possession of or detained in the manner provided by Chapter VIII."

28. After para 1 of Sub-Section (2) of Section 142, the following shall be inserted as an additional para :—

"it will be open to a Municipal Council, subject to the approval of Government to set apart any stall or specified locality for the sale of ghee and in such stall or specified lacality, no ghee shall be sold that is adulterated with any other substance."

29. After Section 143, insert the following section, *viz.*—

"143A. No person shall, for the purpose of trade, use or permit to be used any place for stabling milch cattle or for storing or selling milk or for making, storing or selling butter except under and in accordance with the terms of a license from the Municipal Council.

(2) The Municipal Council may grant such license subject to such conditions as they may deem fit and may at any time withdraw such licenses on giving one month's notice to the licensee:

Provided that where the licensee has contravened any of the conditions of the license, the license may be withdrawn without any such notice.

(3) Whoever so uses or permits to be used in any place for any of the aforesaid purposes without, or in contravention of any of the conditions of, or after the withdrawal of, or during the suspension of, such license, shall be punished with fine which may extend to Rs. 50 and in the case of a continuing offence with additional fine which may extend to Rs. 10 for each day during which such offence is continued after the date of the conviction for the first such offence.

(4) Upon a conviction being obtained in respect of any place under Sub-Section (3) the Magistrate shall, on the application of the Municipal Council but not otherwise, order such place to be closed and thereupon, appoint persons or take other steps to prevent such place being so used."

30. In clause (*d*) of Sub-Section (2) of Section 144, after the words "signed by," the following words shall be inserted :—

"the Health Officer of the Municipal Council or."

31. At the end of Section 151, insert the following paragraphs :—

"For the purpose of this Section "nuisance" shall include any contamination of the atmosphere whereby a deposit of soot, or any mechanical noise, is caused.

Nothing in this Sub-Section shall be deemed to affect any provision of the Mysore Steam Boilers and Prime Movers Regulation, 1920, or shall authorise any order relating to the fixing or fencing of any engine, mill gearing, hoist, or other machinery in any factory to which the provisions of the Mysore Factories Regulation are applicable."

32. After Sub-Section (2) of Section 165 insert the following :—

"(3) The Municipal fund shall be liable to pay the expenses of any civil proceeding prosecuted or defended on their behalf."

33. After Section 169 insert the following Section, *viz.*—

"169A. Accounts of the receipts and expenditure of every Municipal Council shall be kept in accordance with the Municipal Account Manual subject to such modifications as the Government may in each case direct."

Accounts to be kept.

34. After Section 176, insert the following Section, *viz.*—

Government inquiry into Municipal matters.

"176A. (1) The Government may order an inquiry to be held by any officer appointed by it in this behalf into any matters concerning the Municipal administration of any Municipal area or any matters with respect to which its sanction, approval or consent is required under this Regulation.

(2) The officer holding such inquiry shall, for the purpose thereof, have the powers which are vested in a court under the Code of Civil Procedure in respect of the following matters :—

(*a*) discovery and inspection,

(*b*) enforcing the attendance of witnesses and requiring the deposit of their expenses,

(*c*) compelling the production of documents,

(*d*) examining witnesses on oath,

(*e*) granting adjournments;

(*f*) reception of evidence taken on affidavit, and

(*g*) issuing commissions for the examination of witnesses;

and may summon and examine *suo motu* any person whose evidence appears to him to be material; and shall be deemed to be a Civil Court within the meaning of Sections 480 and 482 of the Code of Criminal Procedure, Regulation II of 1904.

Explanation.—For the purpose of enforcing the attendance of witnesses, the local limits of such officer's jurisdiction shall be the limits of the Mysore State.

(3) The reasonable expenses incurred by any person in attending to give evidence may be allowed by the Officer holding the inquiry to such person and shall be deemed to be part of the costs.

(4) Costs shall be in the discretion of the Government and the Government shall have full power to determine by, and to whom and to what extent such costs are to be paid, and to allow interest on costs at a rate not exceeding 6 per cent per annum; and such costs and interest shall be leviable as an arrear of land revenue."

35. After Section 179, the following new Section shall be inserted :—

"179A. If any dispute for the decision of which this Regulation does not otherwise provide exists between a Municipal Council and one or more other local authorities in regard to any matters arising under the provisions of this or any other Regulation and the dispute is not amicably settled between the local authorities,

(*a*) the Deputy Commissioner may take cognizance of the dispute and decide it himself if it is between two or more Town or Minor Municipal Councils in the same district or between a Town or Minor Municipal Council and a Village Panchayet in the same district and his decision shall be final; and

(*b*) in all other cases, the matter shall be referred to the Government who may take cognizance of the dispute and decide it and the decision of the Government shall be final."

36. For Sub-Section (1) of Section 186B substitute the following :—

"A Municipal Commissioner shall hold office for such period or periods as the Government may from time to time determine."

37. In Section 186L,

(*a*) for the word "Sub-Sections," the word "provisions" shall be substituted;

(*b*) for the words and figures "Sub-Section (*i*) of Section 151" the word and figure "Section 151" shall be inserted; and

(*c*) for the words and figures "Sub-Section (c) of Section 186J" the words and figures "clause (c) of Sub-Section (1) of Section 186J" shall be inserted.

38. *Transitory provision.*—Such of the elected Presidents and Vice-Presidents as are in office on the date on which this Regulation comes into force shall continue as such during their term of office as Councillors.

STATEMENT OF OBJECTS AND REASONS.

It was found desirable to remove certain doubts regarding the interpretation of some expressions used in the Municipal Regulation and to obviate difficulties in the practical application of some of its provisions. In Madras and in Bombay action has recently been taken to amend the Municipalities Acts and some of the provisions contained in those Bills have been incorporated in this Bill.

NOTES ON CLAUSES.

Clause 2.—The words "whole number" are used in a number of Sections and there is sometimes a doubt as to whether the words mean the number of Councillors then existing or the total sanctioned strength of the Council including vacancies, if any, existing at the time. This definition is meant to clear this doubt.

Clause 3.—This is intended to clear certain doubts in the definition of "Annual letting value."

Clause 4.—There is no provision in the existing Regulation for disqualifying a person who is already elected or appointed to a Council from being again elected to the same Council at an election held before the commencement of the term of such Council and the addition of a provision is necessary to avoid the inconvenience of a fresh election or nomination in such cases.

Clause 9.—In the existing Regulation there is no specific provision as to the date on which resignation takes effect, except in the case of the President of a Municipal Council which is not a City Municipal Council. The amendment will obviate the indefiniteness and scope for doubt which may be entertained as to the date from which the resignation will take effect.

Clause 11.—This clause makes it clear that any error which has materially affected the election should not be disregarded by the Judge.

Clause 12 provides for the Councillor being heard before the Judge passes orders disqualifying him.

Clause 13.—This enables the Government to remove the President or Vice-President from his office when he does not command the confidence of the Council.

Clause 14.—This is intended to empower the President in cases of emergency to direct the execution or stoppage of any work. Similar provision is made in the new Mysore District Boards Regulation.

Clause 15.—This is to provide for summoning a meeting in emergent cases on a shorter notice than three days which is now the prescribed minimum. There may be cases where the matter is such as cannot afford to wait for three days and could not well be decided on the President's own responsibility.

Clause 16.—The use of both the words 'supported' and 'passed' in the Section is understood to have led to misconception of the meaning intended. Hence the amendment.

Clause 17.—This is to specially provide for the moving of resolutions at meetings of Municipal Councils as in the case of District Boards.

Clause 18.—Section 29A, which relates to the Economic Committee is omitted in the existing provision. This omission is rectified.

Clause 19.—For the addition of "29A" *vide* note to clause 18 above. The other change relating to the provision made for the framing of rules is due to the fact, that though the existing Sub-Section refers to rules regarding revision and appeal to be framed under Section 46, the latter section makes no mention of revision and appeal. Either provision has to be made in Section 46 or Section 36 itself, and the latter course is adopted on the analogy of Section 37 which embodies power to make rules.

Clause 21 provides for validating proceedings of the meetings of a Municipal Council or of their committees in certain circumstances.

Clause 22.—Outside markets and slaughterhouses and places used by or for animals for sale or hire, the Municipal Council have no control over articles sold, etc., though the sale might take place on Municipal property. Power to make bye-laws regarding the control, etc., of sale of articles in places which belong to the Municipal Councils, but which are not markets, etc., may be given to Municipal Councils.

Clause 23 provides for private wells used by the public being included within the meaning of sources and means of water supply.

Clause 24.—This is to dispense with the necessity to introduce amending Bills when experience dictates change in the schedules as in the District Boards Regulation.

Clause 25.—Some Municipal Councils are now allowed to levy tolls on condition of paying a specified share of the tolls to the District Boards concerned; but there is no specific provision in the Regulation for the apportionment of such revenue. It is also necessary to reserve power to Government to intervene either by the issue of general instructions or of orders in individual cases for regulating the number and location of toll-gates.

Clause 26.—This provides for summary proceedings being taken against persons who are about to leave the Municipal area and from whom any sums are due to the Municipality.

Clause 27 is intended to control dogs within a Municipal area.

Clause 28.—The object is to provide for a place where pure ghee can be purchased.

Clause 29.—This provides for empowering Municipal Councils to control dairies by means of licenses.

Clause 30.—In practice, it is convenient to authorise the Health Officer of the Municipality to sign the certificate. Hence the change.

Clause 31.—This defines "Nuisance" for the purpose of this clause to include contamination and certain noises.

Clause 32.—Provision is made empowering the Municipal Council to pay the expenses of civil proceedings.

Clause 33.—There is no provision in the Municipal Regulation requiring Municipal Councils to keep accounts. This clause provides for it.

Clause 34.—This empowers Government to order enquiry into municipal matters by an officer appointed by them, such officer being invested with certain judicial functions.

Clause 35.—There is no specific provision for the settlement of disputes between a Municipal Council and other local authorities in the present Regulation. Such a provision exists in Section 98 of the District Boards Regulation and Section 56 of the new Village Panchayet Regulation. The amendment has been drafted so as not to conflict with the aforesaid sections.

Clause 36.—The change enables Government to appoint the Municipal Commissioner even for a period of less than three years in the first instance which it is not possible to do under the present Regulation.

Clause 37 merely provides for certain verbal alterations.

Clause 38.—The term of office of the elected Presidents and Vice-Presidents of all Municipal Councils, except the City Municipal Council, is one year under the existing law. The New Municipal Amendment Regulation provides that the term should be co-extensive with their term of office as Councillors, but does not touch the case of those who were elected for a year before the Bill becomes law. This privilege may be extended to such Presidents and Vice-Presidents also.

No. P. 1541 (1)—*Legis.* 29-25-3, *dated* 29*th September* 1926.

Under S. O. 49 of the Standing Orders for the conduct of business of the Mysore Legislative Council, the following Report of the Select Committee on the Bill further to amend the Code of Criminal Procedure and the Court Fees Regulation is published for general information.

By Order,

B. NAGAPPA,
Secretary to Government,
Local and Legislative Departments.

REPORT OF THE SELECT COMMITTEE APPOINTED TO CONSIDER THE BILL TO AMEND THE CODE OF CRIMINAL PROCEDURE, 1904.

We, the members of the Select Committee appointed to consider the Bill to amend the Code of Criminal Procedure, 1904, considered the several Clauses of the Bill at 5 sittings of the Committee and have the honor to submit our Report.

The provisions of the Bill, we find, are calculated to liberalise the existing law, give greater latitude to the magistrates and better facilities for the public and the accused than now, and as such have our full support subject to the few changes proposed below. We have also taken this opportunity to incorporate certain additional amendments adopted in British India after the Bill under consideration was drafted.

In connection with Clause (2) of the Bill which is intended to recognise 'mukhtiars' as a distinct class of pleaders, we desire to point out that in Mysore there is no law at present recognizing them as such and authorising them to appear in Courts and the amendment, if accepted, would necessitate the amendment of the Legal Practitioners Regulation and the rules issued thereunder, in order to provide for their enrolment and to prescribe their qualifications and the courts in which they may appear. We recommend that Clause (2) may remain and that necessary consequential action may be taken.

The changes are indicated below:—

Preamble.—For the words "His Highness the Maharaja is pleased to enact as follows", the words "it is hereby enacted as follows" may be substituted. This is the enacting formula now in use.

Clause 10.—The provisions of Chapter XXXVI of the Code of Civil Procedure 1882 have been incorporated in Order XL of the Civil Procedure Code of 1911 and hence we propose that for Sub Clause (i) of Cl. 10, the following may be substituted, *viz.*

"In Sub-Section (6) of Section 88 of the said Code for the words 'Chapter XXXVI of the Code of Civil Procedure 1882', substitute "Order XL of the Code of Civil Procedure, 1911."

Clause 40.—We propose to omit this Clause. Section 188 of the British Indian Code of Criminal Procedure, is entirely different from ours and the amendment proposed is therefore not necessary in our Code.

Clause 50.—The new Sub-Section (3) proposed to be added to Section 202 by Sub Clause (ii) of Clause 50 may be renumbered as (2a), to correspond with the numbering in the British Indian Code.

Clause 70.—Sub Clause (1) may be re-written as follows:—

"(i) in Clause (a) for '447' substitute '447 and 504', and"

Clause 77.—Considering local conditions, we propose the omission of this Clause altogether and to leave the law as at present in the matter of tender of pardon.

Clause 92.—The word 'the' occurring in line 3 of Section 388 (1) (a) may be changed into 'a'.